

AMENDED IN ASSEMBLY APRIL 27, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2605

Introduced by Assembly Member De La Torre

February 19, 2010

An act to amend Section 19525 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2605, as amended, De La Torre. Income and corporation taxes: fraud reporting: reward program.

Existing tax laws impose various taxes and fees, and authorize the Franchise Tax Board to administer the assessment, audit, and collection of various taxes and fees. Existing law authorizes the Franchise Tax Board to establish a reward program for information resulting in the identification of underreported or unreported income subject to taxes.

This bill would instead require the Franchise Tax Board to establish a reward program under specified circumstances where, if the Franchise Tax Board proceeds with an administrative or judicial action based on information brought to the board's attention by ~~a person, the person~~ *an individual, the individual* would receive a percentage of any collected proceeds, as defined, of the administrative action, judicial action, or settlement in response to that action. *This bill would apply only to information that is initially received by the Franchise Tax Board on or after January 1, 2011.* This bill would require the information provided to the board to be submitted under the penalty of perjury.

This bill, by expanding the definition of an existing crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19525 of the Revenue and Taxation Code
2 is amended to read:

3 19525. (a) The Franchise Tax Board, under regulations
4 prescribed by the Franchise Tax Board, shall establish a reward
5 program for information resulting in the identification of
6 underreported or unreported income subject to taxes imposed by
7 Part 10 (commencing with Section 17001) or Part 11 (commencing
8 with Section 23001).

9 (b) (1) If the Franchise Tax Board proceeds with an
10 administrative or judicial action based on information brought to
11 the Franchise Tax Board's attention by ~~a person, the person an~~
12 ~~individual, the individual~~ shall, subject to paragraph (2), receive
13 as a reward ~~at least 15 25 percent but not more than 30 percent of~~
14 the collected proceeds of the administrative or judicial action, or
15 related action, or from any settlement in response to that action,
16 ~~not to exceed two hundred fifty thousand dollars (\$250,000). The~~
17 ~~determination of the amount of the reward by the Franchise Tax~~
18 ~~Board shall depend upon the extent to which the person~~
19 ~~substantially contributed to the administrative or judicial action.~~

20 (2) (A) In the event the administrative or judicial action is one
21 which the Franchise Tax Board determines to be based principally
22 on disclosures of specified allegations arising from an
23 administrative or judicial hearing, from a governmental report,
24 hearing, audit, or investigation, or from the news media, the
25 Franchise Tax Board may award ~~a sum that it deems appropriate~~
26 ~~that does not exceed 10 percent of the collected proceeds resulting~~
27 from the administrative or judicial action, or related action, or from
28 any settlement in response to that action, *not to exceed one hundred*
29 ~~thousand dollars (\$100,000).~~ In determining the reward amount,
30 the Franchise Tax Board shall take into account the significance

1 of the ~~person's~~ *individual's* information and the role of the ~~person~~
2 *individual*, and any legal representative of the ~~person~~ *individual*,
3 in contributing to the administrative hearing, judicial hearing, or
4 settlement.

5 (B) The reward limitation described in this paragraph shall not
6 apply if the information resulting in the administrative or judicial
7 action was originally provided by the ~~person~~ *individual*.

8 (c) The reward program shall apply to administrative or judicial
9 actions against any taxpayer whose tax liability arose under Part
10 10 (commencing with Section 17001) or Part 11 (commencing
11 with Section 23001), but in the case of a person whose income is
12 subject to taxes under Part 10 (commencing with Section 17001),
13 only if the person's gross income *as adjusted* exceeds two hundred
14 *fifty* thousand dollars ~~(\$200,000)~~ (\$250,000) for any taxable year
15 subject to the administrative or judicial action and the tax, penalties,
16 interest, additions to tax, and additional amounts in dispute *in the*
17 *administrative or judicial action* exceed two million dollars
18 (\$2,000,000). *Whether the amount in dispute exceeds two million*
19 *dollars (\$2,000,000) shall be determined by the Franchise Tax*
20 *Board after the administrative or judicial action has been finalized*
21 *by the Franchise Tax Board.*

22 (d) For purposes of this section, "collected proceeds" includes,
23 but is not limited to, penalties, ~~interests~~ *interest*, additions to tax,
24 and any additional amounts.

25 ~~(e) A determination regarding the amount or denial of a reward~~
26 ~~may, within 30 days of the determination, be appealed to the State~~
27 ~~Board of Equalization.~~

28 ~~(f)~~

29 (e) A contract with the Franchise Tax Board shall not be
30 necessary for any ~~person~~ *individual* to receive a reward under this
31 section.

32 ~~(g) A person~~

33 (f) *An individual* who may receive a reward under this section
34 may be represented by counsel.

35 ~~(h) Any person employed~~

36 (g) *Any individual employed or formerly employed* by or under
37 contract with any state or federal tax collection agency shall not
38 be eligible for a reward provided for pursuant to this section.

39 ~~(i)~~

1 (h) No reward shall be made under this section based on
2 information submitted to the Franchise Tax Board unless the
3 information is submitted under penalty of perjury.

4 (i) *The Franchise Tax Board shall pay the reward amount 60*
5 *days after the last of the following has occurred:*

6 (1) *The collected proceeds resulting from the administrative or*
7 *judicial action, or related action, or from any settlement in*
8 *response to that action are deposited into the General Fund.*

9 (2) *All legal remedies have been exhausted.*

10 (3) *The statute of limitations for filing a claim for refund for,*
11 *or otherwise for contesting, any tax or penalty has expired.*

12 (j) *The Franchise Tax Board shall have full discretion in*
13 *determining whether the information provided by and individual*
14 *warrants further investigation.*

15 (k) *The amendments made to this section by the act adding this*
16 *subdivision shall apply to information resulting in the identification*
17 *of underreported or unreported income subject to taxes imposed*
18 *by Part 10 (commencing with Section 17001) or Part 11*
19 *(commencing with Section 23001) that is initially received by the*
20 *Franchise Tax Board on and after January 1, 2011. Any*
21 *information resulting in the identification of underreported or*
22 *unreported income subject to taxes imposed by Part 10*
23 *(commencing with Section 17001) or Part 11 (commencing with*
24 *Section 23001) that was received by the Franchise Tax Board*
25 *before January 1, 2011, shall not be eligible for the reward*
26 *program.*

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.